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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application Number: 10/653,666 Confirmation Number: 4625

Filing Date: 09/02/2003

Applicant(s): Koichi Takahashi

Entitled: REVERSE PROXY MEDIATOR FOR SERVERS

Examiner: Gerald A. Smarth

Group Art Unit: 2446

Attorney Docket No.: JP920020097US1 (7161-543U)

TRANSMITTAL OF APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is Appellant's Appeal Brief in support of the Notice of Appeal dated October 26, 2010. There is NO FEE REQUIRED for this Appeal Brief. Since Appellant has already paid the fee for the Appeal Brief filed April 30, 2010 pursuant to M.P.E.P. § 1207.04, "[t]he previous paid notice of appeal fee and appeal brief fee can be applied to the new appeal." Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: December 27, 2010

Respectfully submitted,

/Steven M. Greenberg/

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PATENT

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APPEAL BRIEF

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Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed October 26, 2010, wherein Appellants appeal from the Examiner's rejection of claims 9-17 and 21-23.

I. REAL PARTY IN INTEREST

This application is assigned to International Business Machines Corporation by assignment recorded on September 2, 2003 at Reel 014483, Frame 0848.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals and interferences.

III. STATUS OF CLAIMS

Claims 9-17 and 21-23 are pending in this Application and have been rejected at least twice. It is from the multiple rejections of claims 9-17 and 21-23 that this Appeal is taken. Claims 1-8 and 18-20 have been canceled previously.

IV. STATUS OF AMENDMENTS

Claim 15 was amended in an amendment filed together with the Notice of Appeal of October 26, 2010 to address the rejection under 35 U.S.C. § 101 so as to narrow the issues in dispute for the appeal. Appellant assumes that the amendment of claim 15 has overcome the rejection under 35 U.S.C. § 101.

V. SUMMARY OF CLAIMED SUBJECT MATTER

With respect to claim 9, computer equipment relaying transmission of an HTTP request and return of an HTTP response between a terminal and a server is provided. (Par. [0043], lines 1 through 4) The equipment includes HTTP request transfer means for relaying the HTTP response with a cookie sent from a browser of the terminal to transfer the HTTP request with the cookie to the server as a destination of the HTTP request. (Par. [0045], lines 1 through 2) The equipment further includes HTTP response transfer means for receiving the HTTP response returned from the server in response to the HTTP request, (Par. [0090], lines 1 through 2) deleting a domain described in a Set-Cookie header, (Par. [0091], lines 8 through 11) rearranging components of the domain separated by a punctuation character into an inverse order, (Par. [0091], lines 8 through 11) embedding the rearranged components into a path described in the Set-Cookie header, (Par. [0091], lines 11 through 13) embedding a remote port on which the HTTP response was received into the path described in the Set-Cookie header, (Par. [0076], lines 1 through 5) and transferring the HTTP response with the Set-Cookie header to the terminal. (Par. [0076], lines 4 through 5) In this regard, re-arranging the components of the domain in the inverse order includes exchanging positions of a first and last component of the components of the domain. (Pars. [0055], lines 6 through 11)

With respect to claim 14, a data processing method for relaying data exchanged between first computer equipment and second computer equipment is provided. (Par. [0043], lines 1 through 4) The system includes receiving a response sent from the first computer equipment to the second computer equipment. (Par. [0045], lines 1 through 2) The system also includes determining whether the response includes a Set-Cookie header. (Par. [0039], lines 1 through 4) In this regard, the Set-Cookie header includes a domain having components separated by a punctuation character. (Par. [0032], lines 4 through 5) The system also includes rewriting the Set-Cookie header when the response includes the Set-Cookie header so that a cookie set on the second computer equipment based on the Set-Cookie header will have a format recognizable by the second computer equipment. (Par. [0040], lines 1 through 14) Additionally, rewriting the Set-Cookie header includes exchanging positions of a first and last component of the components of the domain. (Par. [0040], lines 10 through 13) Finally, the system includes sending the second computer the response with the Set-Cookie header. (Par. [0043], lines 9 through 11)

In respect to claim 15, a program product is disposed in a recordable type medium for controlling computer equipment relaying data exchanged between first

computer equipment and second computer equipment to perform predetermined data processing. (Par. [0043], lines 1 through 4) The program product includes first processing means for receiving a response sent from the first computer equipment to the second computer equipment. (Par. [0045], lines 1 through 2) The program product also includes second processing means for rewriting a Set-Cookie header when the response includes the Set-Cookie header so that a cookie set on the second computer equipment based on the Set-Cookie header will have a format recognizable by the second computer equipment. (Par. [0081], lines 1 through 2) In this regard, the Set-Cookie header includes a domain having components separated by a punctuation character. (Par. [0081], lines 3 through 4) Further, rewriting the Set-Cookie header includes exchanging positions of a first and last component of the components of the domain. (Pars. [0055], lines 6 through 11) Finally, the program product includes third processing means for sending the second computer equipment the response with said Set-Cookie header. (Par. [0088], lines 5 through 6)

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 14-17 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2001/0037292 by Vogt.

Claims 9 and 11-13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Vogt in view of U.S. Patent Application Publication No. 2003/0037102 by Eckert.

Claims 10 and 21-23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Vogt, Eckert and further in view of U.S. Patent No. 7,337,910 to Cartmell.

VII. THE ARGUMENT

THE REJECTION OF CLAIMS 14-17 UNDER 35 U.S.C. § 102(B)

On pages 4-8 of the Non-Final Office Action dated July 26, 2010 (the "Last Non-Final Office Action"), Examiner rejected claims 14-17 as being anticipated by Vogt. For the convenience of the Honorable Board, claims 16-17 stand or fall with independent claim 15. With respect to the Examiner's determination of anticipation, it is noted that the factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single reference.¹ Moreover, the anticipating prior art reference must describe the recited invention with sufficient clarity and detail to establish that the claimed limitations existed in the prior art

¹ *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997) ("To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently"). *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); *Perkin-Elmer Corp. v. Computervision Corp.*, 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

and that such existence would be recognized by one having ordinary skill in the art.² Absence from an allegedly anticipating prior art reference of any claimed element negates anticipation.³ It is the Appellants' position that Examiner has failed to locate all claimed teachings of claims 14-15 in the single, Vogt reference.

Specifically, in as much as claims 14-15 recite similar operative portions, exemplary claim 14 provides a data processing method for relaying data exchanged between first computer equipment and second computer equipment. For the convenience of the Honorable Board, claim 14 is reproduced herein as follows:

14. A data processing method for relaying data exchanged between first computer equipment and second computer equipment, comprising:
 - receiving a response sent from the first computer equipment to the second computer equipment;
 - determining whether said response includes a Set-Cookie header, wherein said Set-Cookie header includes a domain having a plurality of components, and wherein the plurality of components are separated by a punctuation character;
 - rewriting said Set-Cookie header when said response includes said Set-Cookie header so that a cookie set on the second computer equipment based on said Set-Cookie header will have a format recognizable by the second computer equipment, wherein rewriting said Set-Cookie header includes exchanging positions of a first and last component of the plurality of components of said domain; and
 - sending the second computer said response with said Set-Cookie header.

Integral to claim 14 is the rewriting of a Set-Cookie header by exchanging positions of a first and last component of the components of the domain of the Set-Cookie

² See *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990); *Diversitech Corp. v. Century Steps Inc.*, 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

³ *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986)(emphasis added).

header. Examiner argues at page 5 of the Last Non-Final Office Action that this limitation can be found in paragraph [0048] of Vogt.

For the convenience of the Honorable Board, paragraph [0048] of Vogt is reproduced herein as follows:

[0048] For example, if the domain specifier for a cookie is ".netzero.net", the equivalent path specifier would be the reversed version (again, replacing periods with slashes) which would be "/ten/orezten/". The domain specifier for the cookie can then be removed. Since the path specifier for the cookie now contains the original domain information, the original path information is prepended to the cookie value and terminated with a " " separator. For example, if the cookie value is "data" and the path is "/images", the new cookie value would be "/images data".

As can be seen in the quoted paragraph, in Vogt the domain specifier ".netzero.net" is rewritten into a path specifier "/ten/orezten/". This is totally different from exchanging positions of a first and last component of the components of the domain of the Set-Cookie header, as in Appellant's claimed invention. Specifically, in Vogt the positions of a first and last component of the components of the domain of the Set-Cookie header are not exchanged; rather in Vogt the order of the letters of the domain specifier is reversed. Figs. 8-9 of Appellant's application show an example of how positions of a first and last component of the components of the domain of the Set-Cookie header are exchanged. Specifically, the Set-Cookie header *Set-Cookie: sessionid=001; path=/; domain=abc.com* as shown in Fig. 8 is rewritten into the Set-Cookie header *Set-Cookie: sessionid=001; path=/com/abc/*

as shown in Fig. 9 by exchanging positions of the first (*abc*) and last (*com*) component of the components (*abc* and *com*) of the domain (*abc.com*) of the Set-Cookie header.

To the extent that Examiner has not located the limitation of "exchanging positions of a first and last component of the plurality of components of said domain" in Vogt, Examiner has not found that the prior art included each **properly construed** element claimed in a single prior art reference. Accordingly, Appellant submits that Examiner has not established a prima facie case of anticipation.

THE REJECTION OF CLAIMS 9 and 11-13 UNDER 35 U.S.C. § 103(a)

On pages 8-12 of the Last Non-Final Office Action, Examiner rejects claims 9 and 11-13 as being obvious in view of Vogt and Eckert. For the convenience of the Honorable Board, claims 11-13 stand or fall together with claim 9.

With respect to the Examiner's determination of obviousness, it is noted that Section 2141 of the Manual of Patent Examining Procedure (M.P.E.P.) sets forth guidelines intended to assist personnel of the United States Patent and Trademark Office in making a proper determination of obviousness under 35 U.S.C. 103, and to provide an appropriate supporting rationale in view recent judicial developments

in regard to 35 U.S.C. § 103. Included as part of M.P.E.P. section 2141 are the "Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in KSR International Co. v. Teleflex Inc." (hereinafter the Examination Guidelines). Section III of M.P.E.P. 2141 is entitled "Rationales To Support Rejections Under 35 U.S.C. 103."

Within Section III of M.P.E.P. 2141 is the following quote from the Supreme Court: "rejections on obviousness grounds cannot be sustained by merely conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." KSR Int'l Co., 127 S. Ct. 1727, 1741 (2007) (quoting In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)). Further referring to Section III of the Examination Guidelines, the following is a list of rationales that may be used to support a finding of obviousness under 35 U.S.C. § 103:

- (A) *Combining prior art elements according to known methods to yield predictable results;*
- (B) Simple substitution of one known element for another to obtain predictable results;
- (C) Use of known technique to improve similar devices (methods, or products) in the same way;
- (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (E) "Obvious to try" - choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;

(G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

Upon reviewing the Examiner's analysis in the paragraph spanning pages 8 through 10 of the Last Non-Final Office Action, the Examiner appears to be employing rationale (A). If the Examiner is not relying upon rationale (A), Appellant requests that the Examiner in an Examiner's Answer clearly identify the rationale, as described in the Examination Guidelines, being employed by the Examiner in rejecting the claims under 35 U.S.C. § 103.

In any event, with respect to rationale (A), the Examination Guidelines set forth a precise process for which the Examiner must follow in order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a). Specifically, to reject a claim based on this rationale, Office personnel must resolve the Graham factual inquiries. Thereafter, Office personnel must then articulate the following:

- (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference;
- (2) a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely would have performed the same function as it did separately;
- (3) a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable; and
- (4) whatever additional findings based on the Graham factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.

In articulating a finding that the prior art included each element claimed in a rejected claim, the Examiner must establish a proper claim construction and then compare the properly construed claim to the prior art.⁴ It is the position of Appellant that under M.P.E.P. 2141 and the Examination Guidelines set forth therein, Examiner has not adequately articulated a finding that the prior art included each **properly construed** element claimed with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

Specifically, as already discussed above, Vogt does not teach the limitation of "exchanging positions of a first and last component of the plurality of components of said domain." Eckert does not cure the deficiency of Vogt. Accordingly, since the Examiner has not found that the prior art included each **properly construed** element claimed, Appellant submits that the Examiner has not established a prima facie case of obviousness.

THE REJECTION OF CLAIMS 10 AND 21-23 UNDER 35 U.S.C. § 103(a)

For the convenience of the Honorable Board, claim 10 and 21-23 stand or fall together with claim 9.

⁴ Medichem, S.A. v. Rolabo, S.L., 353 F.3d 928, 933 (Fed. Cir. 2003) (internal citations omitted).

Appellant, therefore, respectfully solicits the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. §§ 102 and 103.

Date: December 27, 2010

Respectfully submitted,

/Steven M. Greenberg/
Steven M. Greenberg
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VIII. CLAIMS APPENDIX

1-8. (Canceled).

9. (Previously Amended) Computer equipment relaying transmission of an HTTP request and return of an HTTP response between a terminal and a server; comprising:

HTTP request transfer means for relaying the HTTP response with a cookie sent from a browser of the terminal to transfer the HTTP request with said cookie to the server as a destination of the HTTP request; and

HTTP response transfer means for receiving the HTTP response returned from the server in response to the HTTP request, deleting a domain described in a Set-Cookie header, rearranging components of said domain into an inverse order, embedding said rearranged components into a path described in said Set-Cookie header, embedding a remote port on which the HTTP response was received into the path described in said Set-Cookie header, and transferring the HTTP response with said Set-Cookie header to the terminal, wherein rearranging the plurality of components of said domain are separated by a punctuation character, and wherein rearranging the plurality of components of said domain in the inverse order includes exchanging positions of a first and last component of the plurality of components of said domain.

10. (Previously Amended) The computer equipment according to claim 9, wherein the punctuation character is a first punctuation character, and wherein the remote port is separated from the plurality of components of said domain by a second punctuation character.

11. (Original) The computer equipment according to claim 9, wherein said HTTP response transfer means adds a predetermined fixed-character string to said Set-Cookie header according to the HTTP response, and transfers the HTTP response with said Set-Cookie header to the terminal.

12. (Previously Amended) The computer equipment according to claim 9, wherein said HTTP response transfer means compiles the plurality of components necessary for identifying said domain when rearranging the plurality of components in inverse order, and transfers the HTTP response to the terminal.

13. (Previously Amended) The computer equipment according to claim 9, wherein said HTTP response transfer means replaces a domain parameter of the server in said Set-Cookie header by another server name, and transfers the HTTP response to the terminal.

14. (Previously Amended) A data processing method for relaying data exchanged between first computer equipment and second computer equipment, comprising:

receiving a response sent from the first computer equipment to the second computer equipment;

determining whether said response includes a Set-Cookie header, wherein said Set-Cookie header includes a domain having a plurality of components, and wherein the plurality of components are separated by a punctuation character;

rewriting said Set-Cookie header when said response includes said Set-Cookie header so that a cookie set on the second computer equipment based on said Set-Cookie header will have a format recognizable by the second computer equipment, wherein rewriting said Set-Cookie header includes exchanging positions of a first and last component of the plurality of components of said domain; and

sending the second computer said response with said Set-Cookie header.

15. (Previously Amended) A program product in a non-transitory recordable type medium for controlling computer equipment relaying data exchanged between

first computer equipment and second computer equipment to perform predetermined data processing, comprising:

first processing means for receiving a response sent from the first computer equipment to the second computer equipment;

second processing means for rewriting a Set-Cookie header when said response includes said Set-Cookie header so that a cookie set on the second computer equipment based on said Set-Cookie header will have a format recognizable by the second computer equipment, wherein said Set-Cookie header includes and domain having a plurality of components, wherein the plurality of components are separated by a punctuation character, and wherein rewriting said Set-Cookie header includes exchanging positions of a first and last component of the plurality of components of said domain; and

third processing means for sending the second computer equipment said response with said Set-Cookie header.

16. (Previously Amended) The program product according to claim 15, wherein during processing in said second processing means for rewriting said Set-Cookie header, a sequence of said domain included in said Set-Cookie header of said response is altered into an inverse order, and a delimiter of said domain is

replaced by a predetermined character to generate a path including said domain rearranged into said inverse order.

17. (Previously Amended) The program product according to claim 15, further comprising means for controlling the first and second computer equipment to rewrite said domain and a first path of a link and location included in said response in conformity with a second path included in said Set-Cookie header.

18-20. (Canceled).

21. (Previously Presented) The computer equipment according to claim 9, wherein the punctuation character is a first punctuation character, and further comprising:

identifying a top level domain name component in the plurality of component of the plurality of components of the domain name and a second level domain name component in the plurality of components of the domain name;

joining the top level domain name component and the second level domain name component with a second punctuation character.

22. (Previously Presented) The computer equipment according to claim 21, wherein the second punctuation character is a different punctuation character than the first punctuation character.

23. (Previously Presented) The computer equipment according to claim 21, wherein the first punctuation character is a slash, and wherein the second punctuation character is a hyphen.

IX. EVIDENCE APPENDIX

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellant in this Appeal, and thus no evidence is attached hereto.

X. RELATED PROCEEDINGS APPENDIX

Since Appellant is unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.